

MDR Tracking Number: M5-04-0533-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 10-21-03.

The IRO reviewed office visits, aquatic therapy, supplies/materials and therapeutic activities rendered from 10-21-02 through 11-22-02 that were denied based upon “U”.

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR \$	Reference	Rationale
10-21-02 through 11-06-02 (5 DOS)	97113	\$1,872.00 (8 units @ \$416.00 X 4 DOS and 4 units @ \$208.00 X 1 DOS)	\$0.00	U	\$52.00	IRO DECISION	IRO did not recommend reimbursement
10-25-02 through 11-22-02 (11 DOS)	99213	\$528.00 (1 unit @ \$48.00 X 11 DOS)	\$0.00	U	\$48.00	IRO DECISION	Reimbursement recommended in the amount of \$48.00 X 11 DOS = 528.00
10-28-02 through 11-22-02 (6 DOS)	97530	\$1,134.00 (6 units @ \$252.00 X 2 DOS, 4 units @ \$168.00 X 3 DOS, 3 units @ \$126.00 X 1 DOS 27 units total))	\$0.00	U	\$35.00	IRO DECISION	Reimbursement recommended in the amount of \$35.00 X 27 units = \$945.
10-23-02	99070	\$22.00 (1 unit)	\$0.00	U	DOP	IRO DECISION	Reimbursement recommended in the amount of \$22.00

TOTAL	\$3,556.00		The requestor is entitled to reimbursement of \$1,495.00
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The IRO concluded that the aquatic therapy (97113) **was not** medically necessary. The IRO concluded that office visits (99213), therapeutic activities (97530) and supplies/materials (99070) from 10-21-02 through 11-22-02 **were** medically necessary.

On this basis, the total amount recommended for reimbursement (**\$1,495.00**) does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 02-10-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
10-21-02 10-23-02 (2 DOS)	99213	\$96.00 (1 unit @ \$48.00 X 2 DOS)	\$0.00	C	\$48.00	96 MFG E/M GR (VI)(B)	C- Denied for negotiated contract price. Requestor provided proof of contract. Reimbursement recommended in the amount of \$38.40 (80% of usual and customary per contract) X 2 DOS= \$76.80
11-01-02 11-15-02 (2 DOS)	99080-73	\$30.00 (1 unit @ \$15.00 X 2 DOS)	\$0.00	F	\$15.00	Rule 133.106(f)	Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$15.00 X 2 DOS = \$30.00
11-11-02	97530	\$42.00	\$0.00	F	\$35.00	Rule	Requestor submitted

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
		(1 unit)				133.307 (g)(3)(A-F)	relevant information to support delivery of service. Reimbursement recommended in the amount of \$35.00
11-01-02	97113	\$208.00	\$0.00	NO EOB	\$52.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$208.00
TOTAL		\$376.00	\$0.00				Requestor is entitled to reimbursement in the amount of \$349.80

This Findings and Decision is hereby issued this 7th day of June 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 10-21-02 through 11-22-02 in this dispute.

This Order is hereby issued this 7th day of June 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

February 6, 2004
Amended February 11, 2004

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IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

This patient was working in a ditch and was lifting himself up using his upper body and felt a pop in the neck, causing immediate pain in the upper back and mid back. His initial VAS indicated a pain level of 8 in the upper back and neck. MRI of the cervical spine indicates a disc herniation at the level of C5/6, which was left sided and central. There was also a protrusion at C3/4. There was compression of the left C6 nerve root that was noted in the MRI. A FCE was performed on February 19, 2002 that indicated a medium level of work ability by the patient. ___ a neurosurgeon, suggested an EMG/NCV of February 22, 2002. ___ did perform a NCV on this patient and the results indicate a radiculopathy, but the report does not specify the location. EMG was performed by ___ and was normal.

DISPUTED SERVICES

The carrier has denied the medical necessity of office visits, aquatic therapy, supplies, materials and therapeutic activities from October 21, 2002 through November 22, 2002.

DECISION

The reviewer agrees with the prior adverse determination regarding aquatic therapy.

The reviewer disagrees with the prior adverse determination for all other treatments.

BASIS FOR THE DECISION

The treatment rendered was documented by the provider as improving the condition of the patient. Clearly, this patient had a neurological displacement in the cervical spine with gave significant pain and also mechanical dysfunction. The treatment rendered does seem to have helped the patient's attempt to return to work. Unfortunately, the aquatic therapy is not adequately documented for its benefit to the condition of the patient. While aquatic therapy is known to have significant benefits in certain patients, this case does not show through the documentation that this patient was a reasonable candidate for this therapy.

____ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ____ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ____, I certify that there is no known conflict between the reviewer, ____ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

____ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,